

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALI HAMILTON,

Defendant.

15-CR-854 (SHS)

MEMORANDUM ORDER

SIDNEY H. STEIN, U.S. District Judge.

On October 22, 2018, Ali Hamilton pled guilty to participating in a racketeering conspiracy (Count One), committing an assault and attempted murder in aid of that racketeering conspiracy (Count Two), discharging a firearm in furtherance of a crime of violence (Count Three), and participating in a narcotics conspiracy (Count Six). (ECF No. 291.) On July 27, 2019, the Court sentenced Hamilton to a prison term of 60 months on Counts One, Two, and Six, and 120 months on Count Three, to run consecutively, followed by supervised release for five years on Count One, Three, and Six, and three years on Count Two—to run concurrently. (ECF No. 391.)

Hamilton has now filed a pro se motion seeking compassionate release pursuant to 18 U.S.C. § 3582(c) and requesting appointment of counsel to assist him in that motion. (ECF No. 473) He contends that the COVID-19 pandemic plus his asthma, pre-diabetes, throat infections, and nasal congestion constitute extraordinary and compelling reasons supporting his release. (*Id.*) The Court concludes that appointment of counsel is not necessary on this motion, see *United States v. Batista*, No. 01 CR 823(NRB), 2009 WL 5757478, at \*1 (S.D.N.Y. Mar. 17, 2009); *Cooper v. A. Sargenti Co., Inc.*, 877 F.2d 170, 172 (2d Cir. 1989), and a reduction of Hamilton's sentence in the circumstances presented here is not warranted.

First, at this time, there is no reason to deduce that FCI Schuylkill—where Hamilton is incarcerated—is incapable of handling the spread of COVID-19 within its confines. BOP data reflects that one inmate at FCI Schuylkill has tested positive out of a total of 215 completed tests. See *COVID-19 Update*, Bureau of Prisons, <https://www.bop.gov/coronavirus> (last updated September 2, 2020). The facility does not appear to have a significant COVID-19 problem.


Second, Hamilton, who is 28 years old, does not contend that he has received improper treatment for his medical conditions while incarcerated. The CDC has highlighted that individuals with moderate to severe asthma may face a higher risk for severe illness from COVID-19. See *People Who Are at Increased Risk for Severe Illness*, Ctrs. for Disease Control &

Prevention, <http://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html> (last updated June 25, 2020). But Hamilton has not suggested that he is receiving inadequate treatment for his asthma at FCI Schuylkill. Moreover, the CDC does not list pre-diabetes, throat infections, or nasal congestion as COVID-19 risk factors and defendant does not otherwise adduce evidence to remedy this gap. *See People With Certain Medical Conditions*, Ctrs. for Disease Control & Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last updated Aug. 14, 2020). The COVID-19 pandemic by itself is not a compelling reason for Hamilton's release. *See United States v. Lindo*, 15-cr-854 (SHS) (S.D.N.Y. Aug. 26, 2020).

Further, the Court cannot find that application of the section 3553(a) factors favors Hamilton's early release. The nature and circumstances of his offenses are serious. Over the course of his membership in the Beach Avenue Crew, a significant and violent narcotics distribution ring in the Bronx, Hamilton was responsible for distributing crack cocaine, marijuana, and heroin and he possessed firearms to protect the Crew's drug territory from rivals. (PSR at 27.) Hamilton attempted to murder a rival drug dealer. (*Id.*) During that shooting, Hamilton opened fire at the rival gang member and missed, but hit an innocent victim in the head. (*Id.*) Further, defendant still has approximately 122 months left in his sentence, which is a full 67.7 percent of his sentence.

Accordingly, IT IS HEREBY ORDERED that Hamilton's motion for compassionate release is denied on the grounds that no extraordinary and compelling reasons exist for his release and the section 3553(a) factors do not weigh in his favor. The Clerk of Court shall mail a copy of this Order to Mr. Ali Hamilton [73002-053], FCI Schuylkill, P.O. Box 759, Minersville, PA 17954, and note the mailing on ECF.

Dated: New York, New York  
September 4, 2020

SO ORDERED  
  
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SIDNEY H. STEIN  
U.S.D.J.